

Application No. 09/874,801
Amendment dated April 20, 2004
Reply to Office Action of November 20, 2003
Docket Number 06821/06258

REMARKS

Claims 1-7, 14-18, 24, 26, 28, 29, 31-33, 37-39 and 41-45 are in this application. Claims 1-7 and 14-18 have been allowed. Claims 31-33 and 45 have been objected to for informalities. Claims 24, 26, 28, 29, 37-39, and 41-44 have been rejected. Reconsideration of the objections and rejections is respectfully requested.

By this amendment claim 31 has been amended as suggested by the Patent Office in connection with the claim objections. No new matter has been added by the amendment. Reconsideration of this application is respectfully requested.

The Claim Objections

The Objection to Claims 31-33, and 45

Claims 31-33 and 45 are objected to because of informalities. The word "bars" has been replaced with the word "prevents." It is believed that the amendment overcomes the objection to claims 31-33, and 45.

§ 102 Rejections

Rejection of Claims 24, 28-29, 37, 39 and 41 under 102(b) as being anticipated by Haigh (US Patent No. 3,770,536 – "Haigh")

Applicant respectfully requests reconsideration of Claims 24, 28-29, 37, 39 and 41 which have been rejected under 35 U.S.C. § 102(b) as being anticipated by Haigh.

The Patent Office has stated in that Haigh "shows and discloses a building structure comprising a laminated wood board formed by laminated wood board having a generally elongated cubicle shape with six sides, and an elastomeric membrane of a non-tacky, non-vulcanized, cured liquid rubberized coating material."

Applicant respectfully points out that the coating of elastomeric material described in Haigh is produced by pressure vulcanization (see Haigh, Column 4, lines 45-48), and as such, is

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in fact a vulcanized rubber. Accordingly, the laminated product described by Haigh cannot anticipate the moisture and condensation "barrier comprising a non-vulcanized, cured liquid rubberized coating," as recited in Applicant's independent claims 24, 28, 29 and 37. Moreover, the vulcanized rubber layer of the Haigh laminated product is situated between two solid layers of the laminated product and serves the purpose of bonding the two layers together. Nowhere does Haigh mention or suggest that the adhesive layer of the laminate could be produced without pressure vulcanization. In fact, as Haigh describes throughout the specification, the pressure vulcanization process (i.e., application of high heat and pressure) is key to achieving the desired bonding between the layers of the laminate.

In addition, Haigh makes no mention of any construction materials that comprise a moisture barrier of any kind -- there is no suggestion in Haigh that the vulcanized rubber bonding layer in the described laminated product is intended to or does perform as a moisture barrier. Notably, nowhere does Haigh mention or suggest that the vulcanized rubber layer could be useful for any purpose other than facilitating the stable bonding between two solid layers of the laminated product. And in particular, with respect to claim 29, Haigh makes no mention of a building structure which comprises a wood board coated with a moisture barrier comprising a non-vulcanized, cured liquid rubberized coating. Haigh's specification is limited to describing laminated products in which the vulcanized rubber layer serves to bond layers of the laminate.

Because Haigh lacks disclosure of the specific structures and features that are recited in claims 24, 28, 29 and 37, Haigh does not anticipate these claims. Claim 39, which depends from claim 24, and claim 41, which depends from claims 24, 28 and 37, are for the same reasons not anticipated by Haigh. Reconsideration of these claims is respectfully requested.

§ 103 Rejections

Rejection of Claims 38, and 42-44 under 103(a) as being unpatentable over Haigh '536 as applied to (independent) claims 28, 29 and 37

Applicant respectfully requests reconsideration of Claims 38, and 42-44 which have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Haigh.

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The Patent Office has suggested that "it is common engineering practice to provide a coating material covering various sides of a structure," and that while Haigh "fails to specify the rubberized coating may cover more than one side" of the laminated product, covering a "variety of sides" "would have been an obvious matter of design choice to a person of ordinary skill in the art."

Applicant respectfully disagrees with the suggestion of the Patent Office. The laminated product of Haigh is a layered material in which each of the layers are arranged in a parallel fashion (as depicted in Figure 2 of Haigh, referenced and presented in the Office Action at page 3) with the vulcanized adhesive layer situated between two solid layers. Throughout Haigh, the vulcanized rubber layer is coated on only one side of the laminate substrate and is situated between the two solid layers of the laminate when the layers are bonded together. Haigh does not mention or suggest coating more than one side of any laminate substrate. In particular, Haigh does not mention or suggest coating more than one side of a substrate for the purpose of bonding additional parallel layers of substrate. Likewise, Haigh does not mention or suggest coating additional sides of a substrate for the purpose of bonding anything in a perpendicular orientation to a substrate. Absent some suggestion or motivation for modifying the laminated product of Haigh to provide coating of the elastomeric material to more than one side of the laminate substrate, Application submits that it would not be obvious to do so.

Even if the laminated product of Haigh were modified by coating more than one side of a laminate substrate, the resulting combination would still lack the distinct features of building construction materials having a moisture "barrier comprising a non-vulcanized, cured liquid rubberized coating" applied to one or more sides, as recited in claims 38, and 42-44. Accordingly, Applicant asserts that claims 38, and 42-44 are patentable over Haigh, and applicant respectfully requests reconsideration of the rejection.

Rejection of Claim 26 under 103(a) as being unpatentable over Haigh '536 as applied to (independent) claim 24

Applicant respectfully requests reconsideration of Claim 26 which has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Haigh.

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The Patent Office has stated that while "Haigh fails to specify the moisture and condensation barrier having a thickness as claimed" in claim 26, "it would have been obvious to one having ordinary skill in the art ... to create optimal thickness of the barrier ... for sufficiently preventing penetration of the moisture and condensation."

Applicant respectfully disagrees with the Patent Office. The vulcanized adhesive layer of the Haigh laminated product is provided for the purpose of facilitating bonding between the substrate layers of the laminate. There is absolutely no mention in Haigh that the vulcanized adhesive layer is for the purpose of providing a moisture barrier. In fact, to the extent that Haigh mentions the term moisture, it is in the context of seeking to achieve dimensional stability of the top laminate layer when there is a difference in moisture content between the top and bottom layers (see Column 1, lines 40-55, and Column 2, lines 25-30). Haigh does not suggest that the vulcanized adhesive layer serves as a barrier to moisture. Much to the contrary, as noted in the cited portions of its specification, Haigh seems to acknowledge that both layers of the laminated product will be prone to the effects of moisture. At most, Haigh suggests that one advantage of the vulcanized adhesive layer is its ability to stabilize the top layer and prevent curling when the laminated product is exposed to moisture.

The particular features recited claim 26 are neither disclosed in Haigh nor obvious in light thereof. Not only does Haigh not teach or suggest a "moisture and condensation barrier comprising a non-vulcanized, cured liquid rubberized coating material coated onto a wood board," there is no mention in Haigh that such layer should be of a "thickness sufficient to prevent moisture and condensation from penetrating through" the barrier, and there is no mention of the specific thickness recited in claim 26. Accordingly, Applicant asserts that claims 38, and 42-44 are patentable over Haigh, and applicant respectfully requests reconsideration of the rejection.

Conclusion

In view of the amendment to this application and the remarks made above, reconsideration and allowance of rejected claims 24, 26, 28, 29, 37-39, and 41-44, and of objected claims 31-33 and 45 is respectfully requested.

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Applicant believes that his application is now in condition for allowance, and prompt notice to that effect is respectfully requested.

Respectfully submitted,

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